| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/922,884 | 08/06/2001 | Gregory J. Mesaros | GEDP101USE | 9136 |

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| EXAMINER |
|---|
| NGUYEN, CUONG H |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3661 | |

DATE MAILED: 07/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

| | **Application No.** | **Applicant(s)** |
|---|---|---|
| **Office Action Summary** | 09/922,884 | MESAROS, GREGORY J. |
| | **Examiner** | **Art Unit** | |
| | CUONG H. NGUYEN | 3661 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *17 May 2004*.

2a)☐ This action is **FINAL.**       2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-56* is/are pending in the application.

    4a) Of the above claim(s) *20-42 and 48-56* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19 and 43-47* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *06 August 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All  b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

1.    This Office Action is the answer to the election received on 5/17/2004.

2.    Claims 1-19, and 43-47 are elected for examination.

### Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless

(e) the invention was described in
(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351 (a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3.    **Claims 1, 3-7, 11-15, 16, 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Pallakoff (U.S. Patent No. 6,269,343).**

A. As to independent claim 1: Pallakoff discloses a system, comprising components to:

-    electronically offering a product for sale (see Pallakoff, Fig. 1 ref. 12a, and

    col. 3 line 5 - col. 4 line 36);

-    receiving a first order for the product at a first price (see Pallakoff, col. 3 line

    11 - col. 4 line 17);

-    receiving a second order for the product at a second price, the second price

    being lower than the first price (see Pallakoff, col. 2 lines 27-28; col. 3 line 11

    - col. 4 line 17); then a seller will make a price decision (see Pallakoff, col.6

    lines 14-21, and col.11 lines 44-46).

Therefore, Pallakoff inherently teaches a system to calculate/charge a lower price for

customers. Please note that this claim is merely a system to calculate a lowest price for

customers (including shipping prices).

B. As to dependent claim 3: Pallakoff inherently teaches a system to receiving different

orders from different parties, and manages those information (see Pallakoff, Fig. 1 refs.

14a – 14d).

C. As to dependent claims 4-5: Pallakoff discloses an access control component (including

sending messages/notices to sellers, and buyers/users, see Pallakoff, Fig. 1 ref. 1, Fig.3

refs. 37-38).

D. As to dependent claim 6: Pallakoff's system inherently comprises a terms and

conditions component to manage agreements between buyers and sellers (see Pallakoff, the

abstract's "conditional offer", and col. 1 line 55 – 58, and col. 12 lines 5-10 "term").

E. As to dependent claims 7, 12-13: Pallakoff inherently teaches a blanket pricing

component to manage agreements between buyers and sellers as to product prices, managing

accounts (i.e., "maintaining a deposit account with the system operator", and providing decision

supports to buyers/sellers - see Pallakoff, Fig. 1 ref. 13 – the "System Controller 13"

performs above claimed functions).

F. As to dependent claim 11: Pallakoff discloses that a system controller 13 comprises a

RFP component operable to manage product requests (see Pallakoff, Fig.1).

G. As to dependent claims 14, 19: Pallakoff discloses a system with terminal 12 and

terminal 14 representing a seller agent, and a buyer agent; Pallakoff inherently teaches that his

system creates an order a buyer according to a buyer's request (see Pallakoff, col. 11 lines 44-46).

H. As to dependent claim 16: Pallakoff inherently teaches that a system controller 93 gives

detail information of a sellers in an offer (see Pallakoff, Fig.1 ref. 93, and Fig.3 ref.37).

## *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically
disclosed or described as set forth in section 102 of this title, if the
differences between the subject matter sought to be patented and the prior
art are such that the subject matter as a whole would have been obvious at
the time the invention was made to a person having ordinary skill in the
art to which said subject matter pertains.  Patentability shall not be
negatived by the manner in which the invention was made.
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**4. Claim 2, 8-10, 15, 17-18, 43-47 are rejected under 35 U.S.C. 103(a) as being**

**unpatentable over Pallakoff (U.S. Patent No. 6,269,343).**

A. As to independent claim 43: Pallakoff discloses a system for volume pricing,

comprising:

     - a server configured to receive orders for a product from a plurality of different buyers

via at least one remote computer system, the server comprising "physical components":

-       a processor;

-       a memory coupled to the processor; and

-       a network interface coupled to the processor for transmitting and receiving data with

       a remote computer system (see Pallakoff, Fig.1).

Pallakoff does not expressly disclose specific content of a memory; however, the

examiner respectfully submits that Pallakoff sufficiently provides structural components to build

up the claimed system.

It would have been obvious to one of ordinary skill in the art at the time of invention to

implement Pallakoff's structure to contain a first price schedule and a second price schedule due

to these schedules are merely "written material" that do not significantly change the claimed

structure of Pallakoff (please note also that a common practice of "share-shipping" has been

widely used).

B. As to dependent claims 44-45: Pallakoff obviously suggests that a first and a second price are determined according to a quantity of product ordered, or depending on <u>when</u> an order is placed (see Pallakoff, Fig.3 ref. 32, the abstract, and claims 1, 8). Please note also that this claimed limitation is non-functional written material <u>for a memory component</u>.

C. As to dependent claim 46: Pallakoff discloses a system wherein different buyers access to view detailed product information (e.g., the first and second price schedules) via remote computes (see Pallakoff, Fig.9 ref. 96) – moreover, it is common sense to display detailed materials/data because a user always want to know detailed information before making an order of a product.

D. As to dependent claim 47: Pallakoff discloses a system controller 13 comprising a memory storage to receiving orders wherein a server being configured to limit a period during which orders for the product are accepted to an open session period – a non-functional detail description material: a limited time requirement (see Pallakoff, Fig.3 ref. 32, and claims 1, 8).

E. As to dependent claim 2: Pallakoff discloses a system to order a variety of products (see Pallakoff, Fig.1 refs. 12a-12x).

Pallakoff does not disclose a catalog of products in his system; however, a list of products would be available for customers to make selections and knowing that product's availability, price .etc., that information would have been obvious to one of ordinary skill in the art at the time of invention to put a catalog of provided products for reference.

F. As to dependent claims 8-10: Pallakoff discloses a system comprising a product database (system controller 13 consists of server hardware running database software).

He does not disclose a relationships component to manage relationships between products (a byproduct relationship – e.g., a monitor screen and a desk-top computer system, or a NEC monitor screen 17" versus a NEC monitor screen 20")

However, it would have been obvious to one of ordinary skill in the art at the time of

invention to implement Pallakoff's structure to use a relational database instead of a regular

database for "linking" between products because a relational database is merely "written

material" that do not significantly change Pallakoff's system.

G. As to dependent claims 15, 18: Pallakoff does not disclose that his system uses

customer's historical data to determine a price.

However, it was old and well-known that customers' historical data/profiles have been

widely used for selling products (e.g., a Circuit City store uses customer's phone number to trace

a consumer's history, and Best Buy stores give discount coupons (a different price) to past

customers in their database) – a motivation for using customer's profile for determining a price is

to encourage regular visitors for doing more business with those stores (please note that claim

18's "to assist at least one of the plurality of buyers in finding a best buy for at least one of a

plurality of products" is merely an intent of use of a "system" claim).

It would have been obvious to one of ordinary skill in the art at the time of invention to

implement Pallakoff's system for using customer's historical data to determine a pricing strategy

of a product with respect to at least one of the plurality of buyers.

H. As to dependent claim 17: Pallakoff suggests that his system could provide

information of a production schedule (e.g., delivery time).

The motivation is that detail information about a production schedule has been

informed to buyers for anticipation/preparation of their own events.

6.      The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure. Prior art considered includes:

-      Shkedy (U.S. Patent No. 6260024) discloses systems and methods are described

for providing a global bilateral buyer-driven system for creating binding

contracts by incorporating various methods of communication, commerce and security

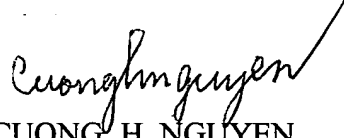for the buyers and the sellers.

- Walker et al. (U.S. Patent no. 6,108,639) discloses a collectible conditional purchase offer (CPO) management system is disclosed for receiving and, processing individual CPOs from buyers for one or more collectibles.

- Walker et al. (U.S. Patent No. 5,794,207) discloses a method and apparatus for effectuating bilateral buyer-driven. commerce.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG H. NGUYEN whose telephone number is 571-272-6759. The examiner can normally be reached on 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THOMAS G. BLACK can be reached on 571-272-6956. The Rightfax number for the organization where this application is assigned is 571-273-6956.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CUONG H. NGUYEN
Primary Examiner
Art Unit 3661